

The opinion in support of the decision being entered today was *not* written for publication in a law journal and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PAUL F. MANLEY

Appeal 2006-2102
Application 10/784,707
Technology Center 1700

Decided: August 30, 2006

Before KIMLIN, GARRIS, and JEFFREY T. SMITH, *Administrative Patent Judges*.

JEFFREY T. SMITH, *Administrative Patent Judge*.

ORDER REMANDING TO THE EXAMINER

This case is not ripe for meaningful review and is, therefore, remanded to the Examiner for appropriate action consistent with the views expressed below.

On page 5 of the Appeal Brief filed September 20, 2005, the Appellant provides a discussion of an Affidavit. Specifically, Appellant

states "the examiner [sic, is] respectfully requested to view the attached Affidavit submitted under 37 C.F.R. [§] 1.132." However, a review of the Brief reveals that an Affidavit was not attached. Further, the Image File Wrapper (IFW) does not include an entry for an Affidavit filed on the same date as the Brief. Moreover, the Examiner has not addressed Appellant's reference to an Affidavit in the Answer.

A review of the IFW reveals that an Affidavit under 37 C.F.R. § 1.132 was filed on June 17, 2005. The present record is not clear as to whether the Appellant is referring to this Affidavit in the discussion appearing in the Brief or whether a new Affidavit has been provided with the filing of the Brief.

We also note that Appellant's Brief submitted September 20, 2005 is not in compliance with 37 C.F.R. § 41.37. Appellant's Brief does not include the Evidence Appendix and Related Proceedings Appendix, which are required by the cited rule.

In summary, the present application is remanded to the Examiner to respond to any properly submitted Affidavit or other evidence submitted by the Appellant. The Examiner should also ensure that the Appellant's Brief meets the requirements of 37 C.F.R. § 41.37.

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This application, by virtue of its special status, requires immediate action. See MPEP § 708.01 (8th ed., Rev. 3, August 2005), item (D). It is important that the Board of Patent Appeals and Interferences be promptly informed of any action affecting the appeal in this case.

REMANDED

clm

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